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Joseph DeLosa 3/9/2017
Public Service Commission
Cannon Building
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RE: 3008 Rules and Procedures to Implement the Renewable Energy Portfolio Standard (Opened August 23, 2005), PSC Docket 56, published March 1, 2017

Please accept these comments in the matter of the adoption of rules and procedures to implement the Renewable Energy Portfolio Standard Act, 26 DEL. C. §§ 351-363, as applied to Retail Electricity Suppliers. We note this proposed regulation is appropriate in light of Superior Court ruling, C.A. N15A-12-002 AML, dated December 30, 2016, upholding the claim by the Delaware Public Advocate and the Caesar Rodney Institute the Public Service Commission (PSC) incorrectly delegated authority to write this regulation to the Division of Energy & Climate pursuant to the clear language in the Renewable Portfolio Standards Act, and remanding the issue to the PSC for proceedings in accordance with the Court's decision.

We appreciate the care and thoughtful approach of the PSC Staff in drafting the regulation. We especially support the affirmation legislative intent was to recognize there is unpriced value to the RPS by allowing a 3% electric rate premium, but did not require those externalities be calculated as an offset against the Cost Cap Calculation. However, we do point out one issue requiring additional clarity. We recommend the following additions (in Italics) to clarify the inclusion of REC and SREC Renewable Compliance Charges from Qualified Fuel Cell Providers.

3.2.21.1.1 The total cost of RECs retired to comply with the RPS, *including that portion of the net Renewable Compliance Charge from Qualified Fuel Cell Providers used to meet REC requirements*, plus

3.2.21.1.3 The total cost of SRECs retired to comply with the RPS, *including that portion of the net Renewable Compliance Charge from Qualified Fuel Cell Providers used to meet SREC requirements*, plus

3.2.21.3.2 The total cost of RECs retired to comply with the RPS, *including that portion of the net Renewable Compliance Charge from Qualified Fuel Cell Providers used to meet REC requirements*, plus

3.2.21.3.3 The total cost of SRECs retired to comply with the RPS, *including that portion of the net Renewable Compliance Charge from Qualified Fuel Cell Providers used to meet SREC requirements*, plus

3.2.21.4.2 The total cost of SRECs retired to comply with the RPS, *including that portion of the net Renewable Compliance Charge from Qualified Fuel Cell Providers used to meet SREC requirements*, plus

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While including the QFCP cost would seem to be self-evident, we note the Division of Energy & Climate has excluded these charges in past Cost Cap calculations. The Division itself included the QFCP costs in the first three of four iterations of their proposed regulation "2102 Implementation of Renewable Energy Portfolio Standards Cost Cap Provisions", now in the process of repeal. The Division will be responsible for the actual calculation, and so needs a clear direction on including the QFCP charges. We note the PSC regularly balances price, reliability, and environmental issues, while the Division of Energy & Climate is an advocate for renewable energy potentially biasing their regulatory process. That is why writing the Cost Cap regulation was left to the PSC by the legislature.

The PSC should maintain consistency in its interpretation of the role of RECs from Qualified Fuel Cell Providers. There are several precedents to consider.

1) The PSC approved the Fuel Cell Tariff in 2011. The Fuel Cell Act required the Commission to reject the tariff if the net levelized cost per month for the fuel cell project exceeded the net levelized cost of the highest current tariff, or the Bluewater Wind project. The PSC Staff Consultant estimated the levelized cost of the Fuel Cell Tariff to be $1.34/month for the average residential customer compared to $2.27/month for Bluewater Wind. Built into the assumptions was the Fuel Cell Act provision for energy production to offset the need for RECs and SRECs. Without this offsetting value the cost of the Fuel Cell Project would have increased over $2.00 more a month, and would have exceeded the price cap requiring rejection of the Fuel Cell Tariff. DNREC took this one step further and allowed each megawatt-hour of fuel cell generation to create two RECs, while an actual wind farm only creates one REC for each megawatt-hour of generation. Clearly the REC value component influenced the PSC Tariff approval process.
2) The proposed regulation recognizes QFCP RECs in section 3.2.4 which spells out energy production from the QFCP can be used to fulfill the RPS requirements, and section 3.2.5 requires PJM-EIS GATS tracking similar to all other RECs and SRECs. The QFCP RECs are equivalent to any REC from any Eligible Energy Resource.
3) Every required annual report of RPS cost and the total Retail Cost of Electricity filed by Delmarva Power has included the QFCP cost without objection from the Division or the PSC Staff.
4) In PSC "Docket 13-250 Electric Bill Transparency", the working group unanimously recommended, and the Commission ruled the Renewable Compliance Charge would be broken out on electric bills. It is now on each monthly bill and includes the QFCP REC cost. How can the Commission explain to ratepayers any inconsistency of what they can see for themselves on an electric bill to what is used to determine whether the Cost Cap has been exceeded?
5) If the QFCP wasn't supplying RECs, Delmarva would have had to purchase them under contract or on the spot market. We will shortly see the current contract cost for RECs when the Delmarva RFP solicitation for RECs is complete. Clearly the QFCP RECs have a cost that adds to the Renewable Compliance Charge. One could point out the QFCP RECs are expensive. However, using information from the Delmarva 2014 IRP, page 73, Tables 8 and 9, we can calculate a forecasted cost for the current 2016 Compliance Year. The costs are $68.14/REC from the QFCP, $33.73 /REC from three existing wind farm contracts, and $24.23/REC from the spot market. The QFCP RECs are the most expensive but not extraordinarily so. For example, SREC values vary from a high of $312 from the first residential procurement auction, to $217 from the Dover Sun Park, to $68 in the latest

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procurement auction, to $15 in the current Maryland spot market. The Fuel Cell Tariff approval and construction of the generation facility was contemporaneous with the three existing wind farm contracts, and so are representative of a range of REC value at the time the Fuel Cell Tariff was approved.

In conclusion these precedents, and ratepayer expectations cry out for clarity on the fuel cell issue. Please consider our clarifications to the proposed regulation to ensure the QFCP portion of the Renewable Compliance Charge is included in the RPS Cost Cap Calculation.

Sincerely,

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